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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,123	04/01/2004	Dov Jacobson	JACO0001	9619
27939	7590	11/26/2008	EXAMINER	
PHILIP H. BURRUS, IV 460 Grant Street Atlanta, GA 30312				KE, PENG
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/816,123	JACOBSON, DOV	
	<b>Examiner</b>	<b>Art Unit</b>	
	SIMON KE	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 August 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .                                                        | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

This action is responsive to communications: Amendment, filed on 8/21/08.

Claims 1-15 are pending in this application. Claims 1 and 7 are independent claims.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki JP 7303209 in view of Usui JP 2002222051.

Claims 1-7, 10, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki JP 7303209.

As per claim 1, Sasaki teaches a method of human authentication in a system comprising a computer and a mouse, said method comprising:

A: detecting mouse micromotion data (paragraph 0024) of a user by gathering a plurality of samples per mouse click; (paragraph 008; paragraph 0019; the desirable to repeat several times of operation is gathering a plurality of samples per mouse click)

B: obtaining at least one metric of mouse movement information characterizing the user from the mouse micromotion data; (paragraph 008)

C: comparing the metric against a database; (paragraph 008)

D: authenticating the user; (paragraph 008)

However, Sasaki fail to teach tracking mouse micro-motion, wherein the mouse micromotion comprises any movement, track, or trace of the mouse as the user manipulates the mouse o move a corresponding cursor form one point to another point.

Usui teaches mouse micro-motion, wherein the mouse micromotion comprises any movement, track, or trace of the mouse as the user manipulates the mouse o move a corresponding cursor form one point to another point. (see Usui's Text of Basic Abstract)

It would have been obvious to an artisan at the time of the invention to include Usui's teaching with method Sasaki in order to provide users with the ability to monitor their micromovement.

As per claim 2, Sasaki and Usui teach the method of claim 1. Sasaki further teaches wherein the method provides information regarding the user's class identity. (paragraph 0042)

As per claim3, Sasaki and Usui teach the method of claim 1. Sasaki further teaches wherein the step of detecting the mouse micromotion data (paragraph 0024) of the user is executed without the user's awareness. (paragraph 0013; To detect the habits of the individual is to detect the individual's actions without his/her awareness;)

As per claim 4, Sasaki and Usui teach the method of claim 1. Sasaki further teaches the database comprises an aggregated representation of previously detected mouse micromotional data. (paragraph 0021)

As per claim 5, Sasaki and Usui teach the method of claim 1. Sasaki further teaches the step of obtaining the at least one metric of mouse movement information comprises obtaining a

plurality of metrics of mouse movement information (paragraph 0024) and the comparison between the metrics and the database uses at least one eigenvector derived from the metrics. (paragraph 0013, 0022, 0040-43 and 0045)

As per claim 6, Sasaki and Usui teach the method of claim 1. Sasaki further teaches the mouse micromotion data of the user are in response to a display on the computer's screen. (paragraph 0013, figure 2)

As per claim 7, Sasaki teaches an information processing system for identifying its users, the system comprising:

An arrangement of sensors for detecting user mouse micromotion data (paragraph 0024) by gathering a plurality of samples per mouse click; (paragraph 008; paragraph 0019; the desirable to repeat several times of operation is gathering a plurality of samples per mouse click)

A memory unit for storing the detected user mouse micromotion data; (paragraph 0013)

A computational element for obtaining at least one metric from the user's mouse from the mouse micromotion data (paragraph 0024) and manipulating the metric; (paragraph 0013 and 0022)

and

A database. (paragraph 0021)

Usui teaches mouse micro-motion, wherein the mouse micromotion comprises any movement, track, or trace of the mouse as the user manipulates the mouse o move a corresponding cursor form one point to another point. (see Usui's Text of Basic Abstract)

It would have been obvious to an artisan at the time of the invention to include Usui's teaching with method Sasaki in order to provide users with the ability to monitor their micromovement.

As per claim 10, Sasaki and Usui teaches the system of claim 7. Sasaki further teaches wherein said information processing system is distributed over a plurality of network devices. (paragraph 0012)

As per claim 13, Sasaki and Usui teaches the system of claim 7, Sasaki further teaches wherein the system is used for network access. (paragraph 0001)

As per claim 15, Sasaki and Usui teaches the system of claim 7, Sasaki further teaches said information processing system is a single computer. (paragraph 0001)

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki JP 7303209 in view of Usui JP 2002222051 in view of Federova US Publication 2004/0172564 A1.

As per claim 8, Sasaki and Usui teaches the method of claim 7, Sasaki fails to teach a target pattern is used to elicit information known only to an authorized user.

Federova teaches a target pattern is used to elicit information known only to an authorized user. (paragraph 0026)

It would have been obvious to an artisan at the time of the invention to include Federova's teaching with method of Sasaki in order to provide users with an authorization method that can be easily memorized.

As per claim 9, Saski, Usui, and Federova teach the method of claim 8. Federova further teaches a target pattern that changes from a session to session is used to elicit the user's mouse movements. (paragraph 0026)

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki Japanese Patent JP7303209 in view of Usui JP 2002222051 in view of Allen, JR. US Publication 2003/0042298.

As per claim 12, Sasaki and Usui teach the method of claim 7. However Sasaki fails to teach the system is used for online voting.

Allen teaches a password system for online voting. (paragraph 006-0012)

It would have been obvious to an artisan at the time of the invention to include Allen's teaching with method of Sasaki and Usui in order to create administrative system for HTML-based ballot creation and election system.

Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki Japanese Patent JP7303209 in view of Usui JP 2002222051 in view of Gallagher US Patent 7,031,939.

As per claim 11, Sasaki and Usui teach the method of claim 7. However Sasaki fails to teach the system is used for commercial transactions.

Gallagher teaches a password system for commercial transactions. (column 1, lines 40-column 4, lines 58)

It would have been obvious to an artisan at the time of the invention to include Gallagher's teaching with method of Sasaki and Usui in order to provide a system for securing

online financial transaction between individual or between individuals and merchants without the need for sending and cashing checks or transmitting confidential information.

As per claim 11, Sasaki and Usui teach the method of claim 7. However Sasaki fails to teach the system is used for authorize the release of sensitive personal records.

Gallagher teaches a password system for authorize the release of sensitive personal records. (column 1, lines 40-column 4, lines 58)

It would have been obvious to an artisan at the time of the invention to include Gallagher's teaching with method of Sasaki in order to provide a system for securing online financial transaction between individual or between individuals and merchants without the need for sending and cashing checks or transmitting confidential information.

#### ***Response To Argument***

Applicant's arguments filed 8/21/08 have been fully considered but they are not persuasive.

Applicant's arguments focused on the fact there is not motivation to combine Sasaki JP 7303209 in view of Usui JP 2002222051.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Usui provided a motivation to combine its method with Sasaki and that is to enabling the user to measure of the position of the index on the screen of personal computer due to the micro-movement device. (see Usui's advantage)

Furthermore, the Supreme Court stated that the Federal Circuit had erred when it applied the well-known teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way. Specifically, as the Supreme Court pointed out, the Federal Circuit had erred in four ways:

- (1) "by holding that courts and Patent examiners should look only to the problem the patentee was trying to solve;"
- (2) by assuming "that a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem;"
- (3) by concluding "that a patent claim cannot be proved obvious merely by showing that the combination of elements was 'obvious to try;'" and
- (4) by overemphasizing "the risk of court and patent examiners falling prey to hindsight bias" and as a result applying "rigid preventative rules that deny fact finders recourse to common sense." KSR, 82 USPQ2d at 1397.

In the present case, the combination of Sasaki and Usui is obvious to one of ordinary skilled in the art because it enabling the user to measure of the position of the index on the screen of personal computer due to the micro-movement device.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIMON KE whose telephone number is (571)272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peng Ke  
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Primary Examiner, Art Unit 2174